

007037-000377.KAG/sjd.262342

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January 28, 2004

(Date of Deposit)

Kenneth A. Gandy

Name of Registered Representative

Signature

January 28, 2004

Date of Signature

122

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

David A. Williams

Serial No. 09/394,867

Filed: September 13, 1999

METHODS FOR ENHANCED  
RETROVIRAL-MEDIATED  
GENE TRANSFER

Examiner: Dave Nguyen

Group Art Unit: 1632

January 28, 2004

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FEB 04 2004

OFFICE OF PETITIONS

### PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Office of Petitions  
Commissioner of Patents  
Crystal Park 1, Suite 520  
Washington, D.C. 20231

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to an Office letter by the United States Patent and Trademark Office. Applicants hereby petition for revival of this application.

A Notice of Abandonment was mailed November 4, 2003. The Notice indicated that this application became abandoned for failure to timely file a proper reply to the Office letter mailed on January 27, 2003. In particular, the Notice stated that no reply had been received.

02/03/2004 AWONDAF1 00000150 233030 09394867

01 FC:1453 1330.00 DA

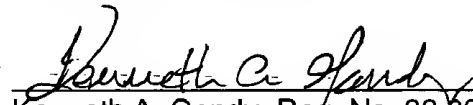
PETITION FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER CFR 37 1.137(b)  
Serial No. 09/394,867  
Attorney Docket No. 7037-377  
Page 1 of 2

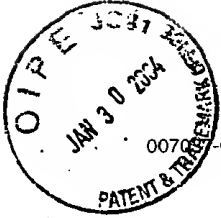
In fact, a reply was filed with the Patent Office on July 28, 2003, including a Notice of Appeal, a request for extension of time, and the necessary fees. Enclosed is a true and accurate copy of said reply, along with a copy of the accompanying date-stamped (July 30, 2003) postcard received from the Patent Office. In view of this information, it appears that the Notice of Abandonment was in error in stating that no reply had been received. However, upon reviewing the matter, it appears that the Notice of Appeal document filed was not a proper response, as it was not signed. This was an inadvertent error.

Enclosed is a signed copy of the Notice of Appeal, completing the required reply. The entire delay in filing this required reply from the due date for the reply until the filing of this petition was unintentional. Applicants thus request revival of this application.

Respectfully submitted,

By:

  
Kenneth A. Gandy, Reg. No. 33,886  
Woodard, Emhardt, Moriarty, McNett  
& Henry LLP  
Bank One Center/Tower, Suite 3700  
111 Monument Circle  
Indianapolis, Indiana 46204-5137  
(317) 634-3456



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January 28, 2004

(Date of Deposit)

Kenneth A. Gandy

Attorney of Registered Representative

*Kenneth A. Gandy*  
Signature

January 28, 2004

Date of Signature

#25

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

David A. Williams

Serial No. 09/394,867

Filed: September 13, 1999

METHODS FOR ENHANCED  
RETROVIRAL-MEDIATED GENE  
TRANSFER

Examiner: Dave T. Nguyen

Group Art Unit 1632

January 28, 2004

### NOTICE OF APPEAL

Hon. Commissioner for Patents  
BOX After Final  
Alexandria VA 22313

Dear Sir:

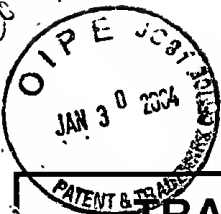
Final rejection of the claims 11-23, 38-43 and 79-83 was mailed from the U.S. Patent and Trademark Office on January 27, 2003.

Applicants hereby appeal the Examiner's final rejection of claims 11-23, 38-43 and 79-83. The payment of the appeal fee was made with the papers filed July 28, 2003. Any additional fees which may be due may be charged to Deposit Account No. 23-3030, but do not include payment of any issue fees.

Respectfully submitted,

By:

*Kenneth A. Gandy*  
Kenneth A. Gandy, Reg. No. 33, 386  
Woodard, Emhardt, Naughton,  
Moriarty & McNett  
Bank One Tower, Suite 3700  
111 Monument Circle  
Indianapolis, Indiana 46204-5137  
(317) 634-3456



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FEB 04 2004

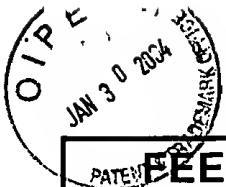
007037-000377.KAG/sjd.262476 WEMMH/SB/21 (4/03)

# DATE

<b>TRANSMITTAL FORM</b> <small>(to be used for all correspondence after initial filing)</small>	Application Number	09/394 867	
	Filing Date	September 13, 1999	
	First Named Inventor	WILLIAMS, David A.	
	Group Art Unit	1632	
	Examiner Name	Dave Nauven	
Total Number of Pages in this Submission		Attorney Docket Number	7037-377

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> To Convert a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Additional Enclosure (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Small Entity Statement	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	Petition for Revival of Unintentionally Abandoned Application
<input type="checkbox"/> Certified Copy of Priority Documents	Remarks	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual Name	Woodard, Emhardt, Moriarty, McNett & Henry LLP	
Signature	<i>Kenneth A. Gandy</i>	
Date	January 28, 2004	

Certificate of Mailing			
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Typed or printed name	Kenneth A. Gandy		
Signature	<i>Kenneth A. Gandy</i>	Date	January 28, 2004



000000377.KAG/sjd.262344 WEMMH/SB/17 (12/03)  
Approved for use through 10/31/2002. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
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PATENT FEE TRANSMITTAL FOR FY 2004		Complete if Known	
Effective 01/01/2003. Patent fees are subject to annual revision.		Application Number	09/394,867
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	September 13, 1999
Total Amount of Payment (\$)		First Named Inventor	WILLIAMS, David A. <b>RECEIVED</b>
(\$)		Group Art Unit	1632
		Examiner Name	Dave Nguyen <b>FEB 04 2004</b>
		Attorney Docket Number	7037-377
METHOD OF PAYMENT		FEE CALCULATION (continued)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None		3. ADDITIONAL FEES	
<input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: 23-3030 Deposit Account Name: Woodard, Emhardt, Moriarty, McNett & Henry LLP		Large Entity      Small Entity	
The Commissioner is authorized to: (check all that apply)		Fee Code      Fee (\$)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments		Fee Description	
<input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees		Fee Paid	
<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.			
FEE CALCULATION			
1. BASIC FILING FEE			
Large Entity      Small Entity			
Fee Code      Fee (\$)			
Fee Description			
Fee Paid			
1001      770      2001      385      Utility Filing Fee			
1002      340      2002      170      Design Filing Fee			
1003      530      2003      265      Plant Filing Fee			
1004      770      2004      385      Reissue Filing Fee			
1005      160      2005      80      Provisional Filing Fee			
SUBTOTAL (1) (\$)			
2. EXTRA CLAIM FEES			
Total Claims      -20** =      Extra Claims      Fee From Below      Fee Paid			
Independent Claims      -3** =      Fee From Below      Fee Paid			
Multiple Dependent      Fee From Below      Fee Paid			
Large Entity      Small Entity			
Fee Code      Fee (\$)			
Fee Description			
Fee Paid			
1202      18      2202      9      Claims in excess of 20			
1201      86      2201      43      Independent claims in excess of 3			
1203      290      2203      145      Multiple dependent claim, if not paid			
1204      86      2204      43      **Reissue independent claims over original patent			
1205      18      2205      9      **Reissue claims in excess of 20 and over original patent			
SUBTOTAL (2) (\$)			
**or number previously paid, if greater; For Reissues, see above			
SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)		Registration No.	Telephone
Kenneth A. Gandy		33,386	(317) 634-3456
Signature		Date	
<i>Kenneth A. Gandy</i>		January 28, 2004	

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or claim a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.